

CABINET

At a meeting held on Tuesday, 12 February 2019

Present:-

Councillor D J Bastiman (Chairman) in the Chair;
Councillors M Smith, W Chatt, M J Cockerill, Mrs H F Mallory, J Nock, Mrs H Phillips
and Mrs S Turner

1. DECLARATIONS OF INTEREST

Councillor Mallory declared a personal interest in agenda item 6, Draft Financial Strategy 2019-2029 since she held a scrap metal licence referred to under the Fees and Charges section of the report.

2. MINUTES

RESOLVED that the minutes of the meeting held on 15 January 2019 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

The Chairman reported that no public questions had been received.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 19/047). In reply to a question about the implications for the Destination Business Improvement District (DBID) process of the continuing concerns raised about the DBID by a number of businesses in Whitby and other areas, the Portfolio Holder for Corporate Investment, Councillor Mallory commented that the DBID company had been advised by the Council to pause the DBID process until a definitive response had been received by the Secretary of State for Communities and Local Government to businesses' request to disregard the result of the ballot. **RESOLVED** that the Forward Plan be approved.

5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS

Members were advised that there had been no call-ins of executive decisions since the last meeting on 15 January.

6. DRAFT FINANCIAL STRATEGY 2019-2029

The Cabinet considered a report by the Director (NE) (Reference 19/044) in respect of the Council's draft Financial Strategy 2019-2029. Introducing his report, the Director, Mr Edwards outlined the principal elements of the draft strategy and how it had evolved since the key proposals for the revenue and capital budget were presented to the Cabinet in December. He referred to the Member Briefings, the online consultation, the review of the Council's reserves and financial resilience recently considered by the Audit Committee, the final Local Government Finance Settlement for 2019/20 announced at the end of January, and the newly updated Treasury Management Strategy. He added that the draft strategy required further amendment to take into account the Council's financial commitments in respect of the South Cliff Gardens project considered elsewhere on the agenda. Mr Edwards advised that the

way the Council managed its risks enabled the Council to keep a relatively low General Fund balance in comparison with similar authorities, and the Council's diminishing reliance on core government funding was a positive factor in terms of financial resilience. However, the value and size of the Council's capital programme presented a significant risk which required careful management and the outcome of the Government's Fair Funding Review had potentially adverse implications for the Council. The latest Government consultation showed that deprivation would be removed as a factor from the funding needs assessment and that a full, rather than a partial business rates reset was proposed in 2020/21. Given that the Council would utilise £1.1m of business rates growth to balance its 2019/20 revenue budget this change in policy could have a significantly detrimental effect on the Council. It was therefore proposed to delay the £200k draw from the General Fund in 2018/19 and similarly, the £300k draw in 2019/20 to provide a contingency against higher than expected funding cuts that may arise from the Fair Funding Review. Mr Edwards also explained how the recent Climate Change motion at full Council and the recommendations of the Overview and Scrutiny Cinder Track Review would be progressed through the draft Financial Strategy. Members of the Cabinet expressed their disappointment about the Fair Funding Review and potential disproportionate impact on coastal communities. With the permission of the Chairman, Councillors Colling, Cluer and Mortimer addressed the Cabinet. Councillor Colling echoed this dismay at the removal of deprivation as a factor in the funding needs assessment and hoped that representations would be made to central Government. She broadly supported the Climate Change proposals, but given the urgency of the issue, called for actions to contribute to carbon neutrality to come forward soon. Councillor Cluer reiterated this point, in particular the need to keep councillors informed of progress, and for the Council to take the lead in the Borough and work with partner organisations. Councillor Mortimer reminded the meeting of the importance of the Cinder Track in the Borough, and that some sections required urgent remedial work.

RESOLVED that the Cabinet:

- i. Note the budget consultation feedback received to date and the updated revenue budget proposals included within the Financial Strategy and in particular:
 - a. Endorse the inclusion of a one-off investment of £80k within the proposals to support the Council's target to commit to achieve carbon neutrality by 2030, and work with governments and partners to determine and implement best practice methods to limit climate change and global warming to within acceptable parameters;
 - b. Recommend that following the local elections in May the Leader adds the responsibility for climate change and carbon neutrality to a specified member portfolio;
 - c. Nominate a separate member champion(s) to support officers in delivering the Council's climate change agenda following the elections in May;
 - d. Endorse that the Director (NE) and Operations, Transport and Countryside Manager be allocated lead officer responsibility within the Council to champion the Council's climate change commitments and to produce and deliver a corporate action plan to facilitate the

achievement of the required objectives, in conjunction with the relevant portfolio holder and member champion(s);

- e. Endorse the inclusion of a one-off investment of £30k for the Cinder Track (as detailed in Section 3.4);
- ii Approve those fees and charges administered by the Council's Environment and Regulation service that require Cabinet approval (as itemised in Section 3.5), which will come into effect on 1 April 2019;
- iii Approve that in future years the authority to approve all Environmental and Regulation service fees and charges be delegated to the Portfolio Holder for Public Health and Housing;
- iv Note the updated Treasury Management Strategy and Investment Strategy for 2019/20, which now incorporates the Commercial Property Investment Strategy, as approved by Council in May 2018;
- v Recommend to Council:
 - a. The approval of the Financial Strategy, specifically:
 - i the Revenue Budget for 2019/20;
 - ii a Council Tax increase of £6.82 for a Band D property (2.99%);
 - iii the Capital Budget and proposed new schemes for 2019/20;
 - iv the optimum levels of reserves for 2019/20;
 - v the Treasury Management Strategy and Prudential Indicators;
 - vi the Council's Pay Policy Statement contained, as required under Section 38 (1) of the Localism Act 2011;
 - b. The approval of the changes to the Discretionary Business Rates Relief Policy (as detailed in Section 3.10);
 - c. That the authority to make changes to the Discretionary Business Rates Relief Policy be in future delegated to the Director (NE) in conjunction with the Portfolio Holder for Commercial Investment.

Reasons

Full Council must approve the 2019/20 budget and associated Council Tax level and fees and charges, which are incorporated within the Financial Strategy, at its meeting on 1 March 2019.

The authority to approve fees and charges for scrap metal license fees must currently be approved by Cabinet.

Changes to discretionary business rate reliefs currently require Council approval, however as they are largely fully funded, government led initiatives the Council's ability to affect the policies is limited. The delegation of approval of the reliefs to officer level will allow the reliefs to be adopted more quickly, which in turn benefits local business rate payers and also provides more time to apply the reliefs to business rate accounts prior to issuing of business rate bills at the start of a financial year.

7. UPDATE TO THE STATEMENT OF COMMUNITY INVOLVEMENT

The Cabinet considered a report by the Director (RB) (Reference 19/026) in respect of an update of the Statement of Community Involvement. Members

were advised that the Statement had been revised following a public consultation last year, principally to increase publicity around potential housing allocations and generally to increase use of twitter and other social media platforms.

RESOLVED that the Cabinet recommend that the Council adopt the revised Statement of Community Involvement and that it is used thereafter as the basis for consultation on both the Policy and Development Management elements of Planning.

Reasons

Under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended), local planning authorities must prepare a Statement of Community Involvement (SCI). A local planning authority's SCI is a statement of their policy for involving interested parties in matters relating to development in their area and should be reviewed at least every five years.

Additionally, the Planning Inspector who examined the Local Plan, whilst confirming that all consultation requirements had been met, recommended that in light of comments from consultees that the SCI be reviewed at our earliest convenience.

8. SCHEDULE OF MEETINGS 2019/20

The Cabinet considered a report by the Director (LD) (Reference 19/010) in respect of the Schedule of Meetings 2019/20. Members accepted the proposed schedule with the sole amendment to remove the statement in the notes that 'some meetings above might not be on usual day of week, e.g. due to clashes with other meetings/events' since this no longer applied.

RESOLVED that the Cabinet recommends, subject to the above amendment, that Full Council adopts the Schedule of Meetings for 2019/20 as set out in Appendix A to the report.

Reasons

To help ensure that Council business is conducted efficiently, provides value for money, quality decision-making and promotes community participation.

9. NEW PROTOCOL FOR MEMBERS ON OUTSIDE BODIES

The Cabinet considered a report by the Director (LD) (Reference 19/006) in respect of a new Protocol for Members on Outside Bodies. In reply to a question about non-attendance, Members were advised that the new protocol did encourage outside bodies at the outset to report to Democratic Services or the Council's Accountable Officer any concerns they may have about the performance of the Member on the outside body including non-attendance.

RESOLVED that the Council be recommended to approve the new Protocol for Members on Outside Bodies appended to the report.

Reasons

To introduce a simpler, and more concise protocol which delivers the four objectives of:

1. Enables Council appointees to understand their responsibilities

2. Enables the Council to have a mechanism for feedback from appointees
3. Maximises transparency to the public by providing more information on the full range of activities undertaken by elected Members – via published information
4. Helps Members who are thinking about taking up a position on an outside body to decide if they want the role

10. REVIEW OF HONORARY ALDERMEN CRITERIA

The Cabinet considered a report by the Director (LD) (Reference 19/007) in respect of a review of Honorary Aldermen. A Cabinet Member spoke against the recommendation maintaining that the proposed criterion of a past Member with 'a minimum of 16 years' service with the Borough Council or a predecessor authority' did not take into account the councillor's attendance record which could be very poor. The counter-argument put forward was that 16 years (or four terms of office) was sufficient evidence of the councillor deserving the honour because of the electorate's longstanding support.

RESOLVED that the Council be recommended to approve a revised criterion for conferring the title of Honorary Alderman, that is:

- Past Members of the Council who have a minimum of 16 years' service with the Borough Council or a predecessor authority

Reasons

Following a review of the Council's current criteria, to ensure a fair, consistent and inclusive approach to recognising 'eminent services' rendered to the Council by past Members in accordance with the powers conferred by Section 249 of the Local Government Act 1972.

11. SOUTH CLIFF GARDENS PROJECT

The Cabinet considered a report by the Chief Executive (Reference 19/004) in respect of the South Cliff Gardens project. The Council's Director (LD) introduced the report noting that the report should be rightly acknowledged as a joint report with the members of the community who had worked so hard in supporting the proposals and ensuring the success of the Heritage Lottery Fund application. The Council's Principal Coastal Officer, Mr Rowe delivered a presentation to the meeting which outlined the background to the project in the Spa Cliff Stabilisation Scheme, the opportunity this project afforded to arrest the decline in the surrounding gardens through a separate HLF application, the large scale of the gardens and corresponding ambition and monetary value of the HLF project, the useful example of a similar scheme on South Tyneside, the integral community dimension of the entire project and widespread affection for the gardens, the important heritage elements, the aim to restore the gardens, broaden their usage and preserve the site for future generations. Mr Rowe outlined the different elements of the project including the restoration of the shelters and the Italian Steps, the drainage improvements, the new operations centre and the Clock Café Family Hub. Members were further advised that the project worth a total of £7.032m had already been through a rigorous two stage process. Within the original Stage 1 application the Council's match funding contribution was anticipated to be £1.25m from the South Cliff Stabilisation Scheme, however disappointingly

during the development of Stage 2, the works which were anticipated to be eligible as match funding were reduced on the grounds they were 'non-heritage costs'. This left the Council with a £1.576m match funding contribution to the project. With the permission of the Chairman, Mr David Auton, Chair of the South Cliff Community Group then addressed the meeting. He commended the efforts of the SCCG and other volunteer supporters of the project who undertook an extensive consultation process within the neighbourhood and further afield using social media to capture people's hopes, aspirations and dreams for the gardens. In the course of six weeks, the SCCG raised a total of £112k for the project attracting pledges locally and from around the world. This demonstrated people's strong emotional attachment to the gardens through all the different stages of life. The gardens represented a place of physical and mental wellbeing to a range of community organisations including carers, dementia, disability action and refugee groups. A youth steering group had also been very active, generating many ideas for the future shape of the gardens. Whilst respecting the past, the project sought to restore and develop the gardens for the future. The Chairman and other Members of the Cabinet congratulated Mr Auton and SCCG for their achievements in both raising funds and engaging such a wide group of people of different ages and backgrounds in this project and thanked them for their outstanding support and involvement.

RESOLVED that the Cabinet recommends that the Council:

- i. Notes and appreciates the work of local community groups in supporting the South Cliff Gardens project to date.
- ii. Approves proceeding to the delivery stage of the South Cliff Gardens project;
- iii. Subject to the approval of the above, approves a scheme budget of £7.032m to cover the capital, project and activity works associated with the project; to be funded as follows: £4.666m Heritage Lottery Fund (HLF) , £1.576m Borough Council resources set aside to progress the capital strategy, £194k match funding from the Spa Coastal Protection scheme budget, £133k from Section 106 contributions, £117k from local fund raising, £235k from additional income, and £111k from in-kind contributions;
- iv. Notes that to progress the scheme the Council must underwrite potential funding and income shortfalls that may arise on the £194k match funding, £133k Section 106 contributions and £235k additional income. Any positive or negative variation in the amounts received from these areas will directly impact the Council's contribution to the scheme;

And that the Cabinet:

- v. Accepts £4.665m (66%) HLF grant funding for the project and approve entering into the grant funding agreement in Appendix B, noting that

this will include the requirement to register a restriction against the Council's title to the gardens;

- vi. Instructs the Council's appointed specialist landscape consultant Southern Green Limited to proceed with the delivery of the project, which will include procurement of a suitable specialist landscape contractor for the works;
- vii. Notes that the outcome of the tender of the capital works, and a recommendation to appoint a specialist landscape contractor, will be reported back to Cabinet in due course along with an update on the achievement of income from external funding pledges. The underachievement of income from funding pledges or a higher than anticipated tender price for the capital works may jeopardise the future progression of the scheme;
- viii. Delegates authority to the Director (LD) in consultation with the relevant portfolio holder to enter in to a funding agreement with the South Cliff Community Group to enable the Council to draw down all monies pledged and raised for the project.
- ix. Approves that £15k of eligible Section 106 contributions previously committed to Valley Gardens be reallocated to the South Cliff Garden project;
- x. Approves that £86k of eligible Section 106 contributions, which are already held or due to be invoiced imminently, be committed to the South Cliff Garden project;

Reasons

To save the unique and enchanting heritage of South Cliff Gardens from a point of critical decline and to breathe new life into the Gardens so they appeal to 21st Century communities and become a vibrant, financially sustainable and well-used park once again.

12. REGENERATION MASTER PLANNING IN EASTFIELD AND THE SOUTH SCARBOROUGH STRATEGIC GROWTH AREA

The Cabinet considered a report by the Director (RB) (Reference 19/031) in respect of a proposed framework for regeneration master planning activity within the South Scarborough Strategic Growth Area (SSSGA). Members were advised that in January the Council had received a capital receipt of £1,158,333 from the sale of land at Middle Deepdale and the Council anticipated receiving further sums in excess of £3.5 million over the coming six years. With such significant sums expected it was essential that the Council established clear strategic objectives, with appropriate principles and protocols to ensure these funds were utilised to provide the best possible socio economic regeneration and social value outcomes for the residents and business of Eastfield and the entire South Scarborough Growth Area. To this end, a draft regeneration master planning brief was annexed to the report which set out the primary objectives of the master planning process, with

social value, economic regeneration, housing, health and wellbeing, a sustainable environment and community engagement at the heart of these ambitions. The draft brief also included a proposed governance model and an indicative timeline and key milestones. Further, following constructive discussions with Eastfield Town Council, a resident focused partnership (PACT) led by the Town Council was launched in December 2018 that would enable cross-sector stakeholder engagement to take place. In response to a question seeking clarification of the precise geographical boundaries of the SSSGA, the Director, Mr Bradley advised that he did not wish the master planning exercise to be constrained by being over-prescriptive on the extent of the area; rather, the geographical detail would come later with the development brief. With the permission of the Chairman, the Eastfield ward councillor, Councillor Warburton addressed the meeting. He welcomed the report and thanked the Cabinet and officers for their work in helping to create the Construction Skills Village and latterly, the Eastfield PACT. Councillor Warburton suggested some one-off grant funding from the Middle Deepdale capital receipt firstly to refresh Eastfield High Street, and secondly to use the opportunity of the new community facility at Overdale school to attract a range of clubs, societies and classes from across the SSSGA, in the same manner as the new community hall at Buckton and Bempton had flourished to the advantage of the wider area. The Chairman thanked Councillor Warburton for his comments, noting the success of the Buckton and Bempton community facility, the positive engagement between the Borough Council and Eastfield Town Council to advance the masterplan, the contribution of Mr Graham Ratcliffe and his team to the ongoing development of the Skills Village, and the importance of the community facilities in Eastfield and elsewhere benefiting users from across the area. However, the Chairman would not support any one-off funding at this stage without an overarching strategic masterplan to determine how the money was to be spent for the benefit of the SSSGA.

RESOLVED that the Cabinet:

1. recommend to Council to agree the allocation of £35k from capital receipts from the sale of land at Middle Deepdale toward the cost of regeneration master planning activity within the South Scarborough Strategic Growth Area.
2. approve the acceptance of up to £36k from the YNYER LEP toward the cost of master planning activity within the South Scarborough Strategic Growth Area (SSSGA).
3. approve the commissioning of a holistic masterplan at a cost of up to £71k for the purposes of facilitating regeneration activity in the SSSGA in accordance with this report and the attached brief at Appendix 1.

Reasons

To facilitate a holistic approach to the regeneration of Eastfield and the wider SSSGA

13. FINANCIAL MONITORING TO DECEMBER 2018 - QUARTER 3

The Cabinet considered a report by the Director (NE) (Reference 19/036) in respect of the Council's financial performance to the end of December 2018. Members were advised that the majority of savings identified as part of the

2018/19 budget setting process were being achieved and there were plans in place to address the small number that were outstanding. The report outlined an expected year end surplus of £702k which was £187k higher than that previously reported. However, following Full Council approval, £150k of this had been earmarked towards the 2019 Tour de Yorkshire Cycle event and £84k towards the implementation of the Residents Parking scheme. The draft Financial Strategy considered earlier also recommended delaying the £200k draw from the General Fund that was budgeted for this year until 2020/21 and therefore, after these three areas had been taken into account, the uncommitted surplus was £268k. The Cabinet had previously agreed that the remaining balance at year end would be transferred to reserves and set aside for the Capital Strategy. The Accountancy Manager, Mr Hughes also alluded to the capital schemes which had now closed, none of which had exceeded their budgets; to the allocation of Section 106 monies towards access road improvements at Clarence Drive playing fields and towards garden improvements to the rear of the Evron Centre in Filey; and to the acceptance of grants from the Local Government Association for Cyber Resilience training and testing, and from the MHCLG for Brexit preparations and the provision of Disabled Facilities Grants. In reply to the Chairman, the Director, Mr Edwards confirmed that the latter grant was paid to the Borough Council through the County Council and he would find out when this would be.

RESOLVED that the Cabinet:

- i) Note the report and in particular that:
 - Despite the setting of an extremely challenging budget a year end surplus of £702k is currently expected to be achieved (£187k higher than previously reported);
 - £234k of this surplus is already committed and Cabinet have previously agreed that the remaining balance will be transferred to reserves and set aside for the capital strategy / one off priorities.
 - The Draft Financial Strategy (19/44) recommends delaying the £200k draw from the General Fund included within the 2018/19 budget until 2020/21. This will reduce the year end surplus.
 - The surplus is primarily driven by one-off savings specifically in relation to business rates refunds, one off grants and delays in legislative changes to pension auto-enrolment.
 - The majority of income targets are being achieved;
 - The capital programme continues to operate within the overall parameters set in terms of contingency levels;
- ii) Approve acceptance of the following grants:
 - £4,900 from Local Government Association for Cyber Resilience training and testing
 - £35,000 from MHCLG to support the Council in making preparations for Brexit.
 - £145,308 from MHCLG for the provision of Disabled Facilities Grants (DFG's)
- iii) Approve the allocation of £25,000 of Section 106 monies towards access road improvements at Clarence Drive playing fields.

- iv) Approve allocation of £6,869 of Section 106 monies towards garden improvements to the rear of the Evron Centre in Filey.
- v) Approve the reallocation of monies within the Peasholm capital scheme to the wider park offering.

Reasons

To provide information relating to the Council's financial performance for the 2018/19 year,

14. CHURCH STREET FLOOD ALLEVIATION SCHEME

The Cabinet considered a report by the Chief Executive (Reference 19/042) in respect of a new flood alleviation scheme in Whitby. Introducing the report, the Portfolio Holder for Major Projects, Councillor Cockerill sought confirmation of the extent of land to be acquired from the County Council and that the transfer be at no cost to the Borough Council, and proposed a minor amendment to recommendation 5 that the photomontage illustration be taken as an example of, not a specific, wave design.

RESOLVED that the Cabinet:

1. Delegate authority to the Director (LD) in consultation with the Portfolio Holder for Corporate Investment to negotiate and conclude the necessary access agreements with relevant third parties to obtain access to their land to construct the Church Street Flood Alleviation Scheme.
2. Subject to the conclusion of recommendation 1, approve the appointment of Esh Construction Limited as contractor for the scheme and delegate authority to the Director (LD) in consultation with the Portfolio Holder for Major Projects to enter into contract to construct the works.
3. Agree to accept the transfer of ownership from North Yorkshire County Council (NYCC) of the land on which the new flood defence wall will be built which will include responsibility for the on-going maintenance of the full length of the wall.
4. Delegate authority to the Director (LD) in consultation with the Portfolio Holder for Corporate Investment to negotiate and conclude an agreement with NYCC to transfer the ownership of the land on which the new flood defence wall will be constructed to Scarborough Borough Council.
5. Approve the visual aspects of the wall with reference to the photomontage in Appendix B as an illustrative example, which is also proposed to include a cast in wave feature, to be approved by the Portfolio Holder for Major Projects, and subject to final approval of the Local Planning Authority.

Reasons

- To manage the risks to people and the developed, natural and historic environments from sea flooding, to the standard of a 1 in 100 year event.

- To provide increased protection to 62 properties from sea flooding; which includes 54 residential properties and 8 commercial properties.
- In order to design and construct necessary improvement works for essential upgrading of Whitby Harbour Assets.
- To comply with Defra's and the Environment Agency's best practice on coastal flood management, including taking into account contemporary guidance, studies and monitoring data.

15. STAITHES COASTAL DEFENCE STRATEGY

The Cabinet considered a report by the Chief Executive (Reference 19/002) in respect of the Staithes Coastal Defence Strategy. Introducing the report, the Portfolio Holder for Major Projects, Councillor Cockerill noted that the Action Plan in the report had slipped by some two months.

RESOLVED that the Cabinet:

1. accept 100% FCDGiA (Flood and Coastal Defence grant in aid) funding from the Environment Agency to undertake a Staithes Coastal Defence Strategy. Total amount of grant aid awarded to the Council is £100,000;
2. approve the appointment of consultants up to the amount of grant offered, selected through a competitive tendering exercise via the YORConsult Framework, to assist with the preparation of the strategy.

Reasons

To produce a Coastal Defence Strategy for Staithes to allow us to effectively manage flood and coastal erosion risk.

To authorise officers to appoint a consultant to undertake the strategy review following a competitive tendering exercise.

Chairman